

*Do not*  
*forget*

--22. A composite for use in a liner for footwear comprising:  
a layer of foam which is treated to have reversible  
and thermal properties; and  
a non-woven material attached to the layer of foam  
that is capable of transferring moisture vapor.--

REMARKS

Claim 9 has been amended. New claims 14-22 have been added. Accordingly, claims 1, 2 and 9-22 are currently pending in the application.

Applicants wish to thank the Examiner for conducting an interview with the undersigned and the inventor on February 9, 2001 in a related application bearing serial number 08/910,115. During the interview, the present invention was distinguished from the prior art. It is submitted that the pending claims are in condition for allowance.

In the parent application claims 9 and 12 were rejected as being anticipated by Semenzato and Fonzi et al. Claims 9-13 were rejected as being anticipated by Tapp.

Semenzato discloses a water impermeable poromeric material formed from a backing fabric, a first layer foam containing vinyl and a second layer foam containing vinyl.

Therefore, Semenzato clearly does not disclose or render obvious Applicant's claimed liner in which an inner moisture transfer material is followed by a foam and a non-woven, as recited.

Fonzi et al disclose a poromeric material made from a non-woven fabric, a porous layer of foam obtained from lattices containing liquid unsaturated polyester resins and a thin microporous surface film. As such, Fonzi et al also fail to disclose or render obvious Applicant's claimed liner. In addition, both Semenzato and Fonzi et al disclose synthetic leathers and are not intended to be moisture transfer liners.

Tapp discloses a film followed by a foam and a non-woven. The non-woven in this reference and in the others is not intended to transfer moisture as in the present invention. In addition, Tapp does not disclose any inner moisture transfer material attached to the foam as presently claimed.

Pursuant to MPEP §2001.06(c), Applicants hereby inform the Patent Office that the patent which issued from the parent application, U.S. Patent No. 6,048,810, is involved in litigation in the United States District Court for the District of Maine (Baychar, Inc. et al. v. Frisby Technologies, Inc. et al., Civil Docket No. CV-01-28-B). Any material information arising from this litigation will promptly be brought to the attention of the Patent Office.

Examination is respectfully requested.

Respectfully submitted,



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**MARKED-UP VERSION OF REWRITTEN CLAIMS**

9. (Amended) A liner comprising:  
an inner moisture transfer material;  
a first layer of foam attached to the inner moisture  
transfer material; and  
a non-woven top sheet attached to the first layer of  
foam, the non-woven top sheet being capable of transferring  
moisture.